

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN SCOTT DOUGLAS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Case Number 20-12281

Criminal Case Number 17-20808

Honorable David M. Lawson

**ORDER DENYING PETITIONER'S MOTIONS TO APPOINT COUNSEL
AND FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* AND
DIRECTING GOVERNMENT TO RESPOND**

On August 11, 2020, the petitioner filed a motion to vacate his convictions and sentences for conspiracy to produce child pornography. The Court has reviewed the petition and finds that it warrants a response. The petitioner also filed a request to appoint counsel and a motion for leave to proceed *in forma pauperis*.

The motion to proceed *in forma pauperis* will be denied as moot because the Court already previously determined that the defendant was indigent, and the Court presumes that his financial circumstances have not been improved by his incarceration.

The request to appoint counsel will be denied because the Court is not persuaded that it should grant that discretionary relief at this stage of the case. The proceedings on a motion to vacate a petitioner's sentence under 28 U.S.C. § 2255 are civil in nature, and the petitioner has no absolute right to the assistance of counsel. *Rauter v. United States*, 871 F.2d 693, 695 (7th Cir. 1989); *United States v. Sanders*, No. 03-154, 2013 WL 5707808, at *2 n.21 (N.D. Ohio Oct. 18, 2013). “[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege not a right.” *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (quoting *United States v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965)). The Court finds that the petitioner

has not advanced any persuasive reason for the Court to exercise its discretion to appoint counsel for this post-conviction matter.

Accordingly, it is **ORDERED** that the petitioner's motion for leave to proceed *in forma pauperis* (ECF No. 125) is **DENIED** as moot.

It is further **ORDERED** that the petitioner's request for appointment of counsel (ECF No. 126) is **DENIED**.

It is further **ORDERED** that the government must file a response to the motion to vacate sentence **on or before October 12, 2020**, and the petitioner's reply in support of his motion, if any, must be filed **on or before November 9, 2020**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 31, 2020